



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2009 REGULAR SESSION

SENATE BILL NO. 81

AS ENACTED

FRIDAY, MARCH 13, 2009

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TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Allen

AN ACT relating to captive cervids.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 257 IS CREATED TO
READ AS FOLLOWS:

(1) There shall be a ban on the importation of live members of the animal family Cervidae into the Commonwealth that have not been subject to a program of surveillance and identification for cervid chronic wasting disease (CWD) that meets or exceeds:

(a) The requirements of the Kentucky Cervid CWD Surveillance and Identification (CCWDSI) Program set forth in this section and in administrative regulations promulgated by the Kentucky Department of Agriculture; and

(b) Any other health requirements as regulated by the Kentucky Department of Agriculture or the United States Department of Agriculture for cervids.

(2) The Kentucky Department of Agriculture shall be responsible for authorizing importation of the members of the animal family Cervidae into the Commonwealth that have been subject to a program of surveillance and identification for cervid CWD that meets or exceeds:

(a) The requirements of the Kentucky CCWDSI Program set forth in this section and in administrative regulations promulgated by the Kentucky Department of Agriculture; and

(b) Any other health requirements as regulated by the Kentucky Department of Agriculture or the United States Department of Agriculture for cervids.

(3) Members of the animal family Cervidae shall not be eligible for importation into the Commonwealth unless the program of surveillance and identification for cervid CWD to which they have been subject:

(a) Has been certified by the exporting state's state veterinarian or agency

1 having jurisdiction over that state's surveillance and identification
2 program;

3 (b) Has been approved by the Kentucky state veterinarian as meeting or
4 exceeding the standards imposed under the Kentucky CCWDSI Program;
5 and

6 (c) Meets, at a minimum, the following requirements:

7 1. The program shall require cervid owners to obtain identification and
8 laboratory diagnosis from brain tissue as directed by the exporting
9 state's state veterinarian or agency with jurisdiction for cervids twelve
10 (12) months of age or greater that:

11 a. Display clinical signs of CWD;

12 b. Die, including deaths by slaughter or by hunting, including
13 hunting on hunting preserves; or

14 c. Are ill or injured, regardless of whether the illness or injury
15 results in death; and

16 2. The program shall require cervid owners to obtain cervids from herds
17 that have been monitored for at least five (5) years and that have
18 complied with the standards contained in the Kentucky CCWDSI
19 Program.

20 (4) Cervids originating from a state that has reported a confirmed case of CWD in
21 wild or captive cervids shall not be imported into Kentucky until the United States
22 Department of Agriculture approves:

23 (a) Regulations that allow importation from states with confirmed cases of
24 CWD; and

25 (b) A live test for CWD that is available for live testing of cervids.

26 (5) Importation of members of the animal family Cervidae into the Commonwealth
27 shall be consistent with this section and with administrative regulations

promulgated by the Kentucky Department of Agriculture in cooperation with the Kentucky Department of Fish and Wildlife Resources.

➔Section 2. KRS 150.720 is amended to read as follows:

- (1) The Department of Agriculture in cooperation with the Department of Fish and Wildlife *Resources* shall promulgate administrative regulations pertaining to health requirements, eradication of diseases, *importation* and *unique individual identification, including visual identification tags,* of privately owned and farm raised cervids maintained for the production of meat and other products. *Nothing in this section shall limit the authority of the Department of Fish and Wildlife Resources to regulate the unique individual identification, including visual identification, of captive cervids that are not privately owned and farm-raised cervids maintained for the production of meat and other products.* The Department of Fish and Wildlife *Resources* in cooperation with the Department of Agriculture, shall promulgate administrative regulations pertaining to the ~~importation and~~ holding of cervids.
- (2) If any person imports a diseased animal into the Commonwealth in violation of the statutes and administrative regulations, then that person shall be responsible to the Department of Agriculture and the Department of Fish and Wildlife *Resources* for all costs incurred in the investigation, response, and eradication of that disease.

➔Section 3. KRS 150.725 is amended to read as follows:

As used in KRS 150.725 to 150.735:

- (1) "Permit" means a permit to hold captive cervids;
- (2) "Applicant" means a person or entity who has applied to the department for a permit to hold captive cervids;~~[and]~~
- (3) "Application" means an application to obtain a permit to hold captive cervids; *and*
- (4) "Hold" means to confine to a facility regulated under KRS 150.725 to 150.735.*

➔Section 4. KRS 150.735 is amended to read as follows:

- 1 (1) An applicant may place his or her primary containment fence on the property line.
 2 The department shall not require applicants to set primary containment fences any
 3 distance away from the property line.
- 4 (2) Any person who operates a captive cervid facility in accordance with this chapter
 5 may petition the department at any time to expand his or her captive cervid facility,
 6 provided the expansion is adjacent and connected to his or her existing facility and
 7 continues to comply with all applicable statutes and regulations.
- 8 (3) A lawful permit for an existing captive cervid facility may be transferred, along
 9 with any related benefits, rights, responsibilities, and liabilities, to any person who
 10 purchases or otherwise takes ownership of the land area on which the captive cervid
 11 facility exists. Within thirty (30) days of the date of any transfer of permits, the
 12 party transferring the permit shall notify the department of the following:
- 13 (a) Name and address of the party to which the permit is to be transferred;
 - 14 (b) Permit number;
 - 15 (c) Deed indicating change of land ownership; and
 - 16 (d) Any additional information the department deems necessary.
- 17 (4) If any person holding captive cervids is determined in violation of Kentucky statute
 18 or administrative regulation pertaining to the holding of those cervids, then that
 19 person shall have sixty (60) days from when the violation was identified to come
 20 into compliance. The permit holder has the following rights and potential
 21 penalties during the sixty (60) day period:
- 22 (a) During the sixty (60) day period, the permit holder may continue to harvest,
 23 sell or slaughter cervids unless the permit has been suspended in
 24 accordance with administrative regulations promulgated by the department;
 - 25 (b) Failure to come into compliance within sixty (60) days of the notice of
 26 violation may result in a citation and cause the captive cervids to be
 27 immediately seized by the department or the permit to be suspended; and[-]

(c) The individual whose cervids were seized or whose permit was suspended under paragraph (a) or (b) of this section may request an administrative hearing pursuant to KRS Chapter 13B within thirty (30) days of the issuance of a citation or suspension of the permit~~[department's seizure]~~ and may appeal the final decision to Franklin Circuit Court in accordance with KRS Chapter 13B. Pending the final outcome from all appeals, the seized cervids may be disposed of by the department without compensation to the owner.

➔Section 5. KRS 150.740 is amended to read as follows:

(1) There shall be a ban on the importation of live~~[the]~~ members of the animal family Cervidae into the Commonwealth that have not been subject to a program of surveillance and identification for cervid chronic wasting disease (CWD) that meets or exceeds:

(a) The requirements of the Kentucky Cervid CWD Surveillance and Identification (CCWDSI) Program set forth in this section and in administrative regulations promulgated by the Kentucky Department of Agriculture; and

(b) Any other health requirements as regulated by the Kentucky Department of Agriculture or the United States Department of Agriculture for cervids.

(2) The Kentucky Department of Agriculture shall be responsible for authorizing importation of the members of the animal family Cervidae into the Commonwealth that have been subject to a program of surveillance and identification for cervid CWD that meets or exceeds:

(a) The requirements of the Kentucky CCWDSI Program set forth in this section and in administrative regulations promulgated by the Kentucky Department of Agriculture; and

(b) Any other health requirements as regulated by the Kentucky Department of Agriculture or the United States Department of Agriculture for cervids.

(3) Members of the animal family Cervidae shall not be eligible for importation into the Commonwealth unless the program of surveillance and identification for cervid CWD to which they have been subject:

(a) Has been certified by the exporting state's state veterinarian or agency having jurisdiction over that state's surveillance and identification program;

(b) Has been approved by the Kentucky state veterinarian as meeting or exceeding the standards imposed under the Kentucky CCWDSI Program; and

(c) Meets, at minimum, the following requirements:

1. The program shall require cervid owners to obtain identification and laboratory diagnosis from brain tissue as directed by the exporting state's state veterinarian or agency with jurisdiction for cervids twelve (12) months of age or greater that:

a. Display clinical signs of CWD;

b. Die, including deaths by slaughter or by hunting, including hunting on hunting preserves; or

c. Are ill or injured regardless of whether the illness or injury results in death; and

2. The program shall require cervid owners to obtain cervids from herds that have been monitored for at least five (5) years and that have complied with the standards contained in the Kentucky CCWDSI Program.

(4) Cervids originating from a state that has reported a confirmed case of CWD in wild or captive cervids shall not be imported into Kentucky until The United States Department of Agriculture approves:

(a) Regulations that allow importation from those states; and

1 (b) A live test for CWD that is available for live testing of cervids.

2 (5) Importation of members of the animal family Cervidae into the Commonwealth
 3 shall be consistent with this section and with administrative regulations
 4 promulgated by the Kentucky Department of Agriculture in cooperation with the
 5 Kentucky Department of Fish and Wildlife Resources.

6 (6) A person shall be guilty of a Class D felony upon conviction for violating this
 7 section~~[subsection]~~. Upon conviction of a second violation of this
 8 section~~[subsection]~~ and in addition to all other penalties, a person shall be
 9 permanently ineligible for renewal of a captive cervid permit. On or before
 10 November 1 of each year, the Department of Fish and Wildlife Resources and the
 11 Department of Agriculture, Office of the State Veterinarian, respectively shall issue
 12 reports to the Interim Joint Committee on Agriculture and Natural Resources on the
 13 status of chronic wasting disease, and the reports may include the status of other
 14 animal or wildlife diseases in Kentucky and the United States. The reports shall be
 15 used for the purpose of determining the~~[continuing]~~ need for modifications to
 16 the~~[a]~~ statutory ban on the importation of cervids into the Commonwealth~~[or a~~
 17 ~~need for lifting the ban]~~.

18 (7)~~[(2)]~~ The Department of Fish and Wildlife Resources shall have the authority to
 19 immediately, and without compensation to the owner, seize captive cervids that
 20 have been imported into the Commonwealth contrary to this section. The individual
 21 whose cervids were seized may request an administrative hearing pursuant to KRS
 22 Chapter 13B within thirty (30) days of the department's seizure and may appeal the
 23 final decision to Franklin Circuit Court in accordance with KRS Chapter 13B.
 24 Pending the final outcome of all appeals, the seized cervids may be disposed of by
 25 the department without compensation to the owner.

26 (8)~~[(3)]~~ The department shall have the authority to immediately, and without
 27 compensation to the owner, seize and destroy captive cervids that are in the process

1 of being imported into the Commonwealth contrary to this section.

2 ➔Section 6. KRS 246.295 is amended to read as follows:

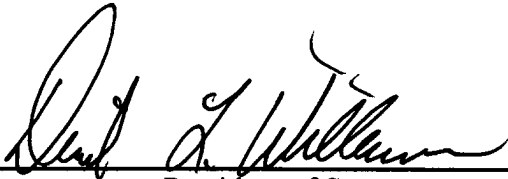
- 3 (1) The Department of Agriculture, in cooperation with the Department of Fish and
 4 Wildlife Resources, shall promulgate administrative regulations pertaining to health
 5 requirements, eradication of diseases, importation, and unique individual
 6 identification, including visual identification tags, of privately owned and farm
 7 raised cervids maintained for the production of meat and other products. Nothing in
 8 this section shall limit the authority of the Department of Fish and Wildlife
 9 Resources to regulate the unique individual identification, including visual
 10 identification, of captive cervids that are not privately owned and farm-raised
 11 cervids maintained for the production of meat and other products. The
 12 Department of Fish and Wildlife Resources in cooperation with the Department of
 13 Agriculture, shall promulgate administrative regulations pertaining to
 14 the~~[importation and]~~ holding of cervids.

- 15 (2) If any person imports a diseased animal into the Commonwealth in violation of the
 16 statutes and administrative regulations, then that person shall be responsible to the
 17 Department of Agriculture and the Department of Fish and Wildlife for all costs
 18 incurred in the investigation, response, and eradication of that disease.

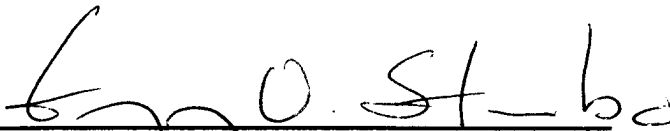
19 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 257 IS CREATED TO
 20 READ AS FOLLOWS:

21 If any person holding captive cervids regulated under KRS 150.725 to 150.735 is
 22 determined in violation of a Kentucky statute or administrative regulation pertaining to
 23 the health requirements, eradication of diseases, importation, and identification of
 24 those cervids, then that person shall have sixty (60) days from when the violation was
 25 identified to come into compliance. During the sixty (60) day period, the cervids shall
 26 be subject to quarantine by the Kentucky Department of Agriculture. The permit
 27 holder may request an administrative hearing pursuant to KRS Chapter 13B within

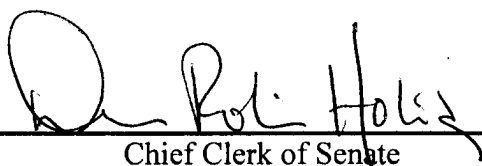
1 thirty (30) days of the notice of violation and may appeal the final decision to Franklin
2 Circuit Court in accordance with KRS Chapter 13B. If a final determination upholds
3 the Kentucky Department of Agriculture, the permit holder's cervids may be disposed
4 of by the department without compensation to the owner.



President of Senate



Speaker-House of Representatives

Attest: 

Chief Clerk of Senate

Approved 

Governor

Date 3-20-09